

SUMMARY ANALYSIS OF AMENDED BILL

Author: Gorell & Chesbro Analyst: William Koch Bill Number: AB 1339
 Related Bills: See Prior Analysis Telephone: 845-4372 Amended Date: May 24, 2011
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Service Station Emergency Standby Generator Credit

SUMMARY

This bill would allow a tax credit for the purchase and installation of an emergency standby generator at a service station located within California.

SUMMARY OF AMENDMENTS

The May 24, 2011, amendments added a coauthor and would:

- Limit the credit to a maximum amount of \$2,500 per emergency standby generator,
- Limit the credit to taxpayers with worldwide gross receipts of less than \$1,000,000 in the taxable year claimed, and
- Require the gross receipts of any trades or businesses to be aggregated for purposes of the above limitation if the trades or businesses are treated as related under Internal Revenue Code Sections 267, 318, or 707.

As a result of the amendments, the "This Bill," "Implementation Consideration," and "Economic Impact" sections of the department's analysis of this bill as introduced February 18, 2011, have been revised. The implementation concern identified in that analysis has been resolved, and a new concern has been identified. The "Fiscal Impact" section has been restated for convenience. The remainder of the department's analysis of this bill as introduced February 18, 2011, still applies.

THIS BILL

For taxable years beginning on or after January 1, 2012, and before January 1, 2017, this bill would allow a personal and a corporate income and franchise tax credit in an amount equal to 50 percent of the costs paid or incurred for the purchase and installation of an emergency standby generator at a service station located in this state. The maximum amount of the credit would be \$2,500 per emergency standby generator.

Board Position:

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Asst. Legislative Director

Date

Patrice Gau-Johnson

9/01/11

This bill provides the following definitions:

- “Emergency standby generator” is an electrical generator that is rated by the manufacturer to generate at least 30 kilowatts of electricity and whose sole function is to automatically provide electric power when electric power from a utility service is interrupted.
- “Service station” means an establishment that offers for sale or sells gasoline or other fuel to power motor vehicles to the public and is owned by a taxpayer with worldwide gross receipts of less than \$1 million for the taxable year in which the credit is claimed. The gross receipts of any trades or businesses that are treated as related under Internal Revenue Code Sections 267, 318, or 707 would be aggregated for purposes of determining the taxpayer’s worldwide gross receipts.

This bill would:

1. Require the taxpayer to recapture the allowed amount of the tax credit if the taxpayer subsequently sells, returns to the vendor, or otherwise removes the generator from service within one year from the date it was placed in service. The recaptured amount would be added to the tax for the taxable year in which the emergency standby generator is sold or removed from service.
2. Provide that if the State Air Resources Board or the State Energy Resources Conservation and Development Commission establish a certification standard for emergency standby generators, the credit would be limited to energy efficient or low emission emergency standby generators that satisfy that standard. The credit would only be allowed for such generators for taxable years beginning on and after January 1 immediately following the calendar year in which the certification standard is established. Notice of such certification standard must be made to the Franchise Tax Board (FTB) within ten working days of establishing that standard.
3. Require the FTB to post on its Internet Web site a notice to taxpayers regarding the establishment of a certification standard for emergency standby generators.
4. Allow any unused credit to be carried over for eight years.
5. Repeal the tax credit as of December 1, 2017.

IMPLEMENTATION CONSIDERATION

The department has identified the following implementation concern. Department staff is available to work with the author’s office to resolve this and other concerns that may be identified.

The language that appears to limit the credit to a maximum of \$2,500 per emergency standby generator could be interpreted to limit the purchase and installation amount of the emergency standby generator to \$2,500, which would further reduce the amount of the credit. The bill should be amended to provide clarity on this issue.

FISCAL IMPACT

This bill would require a calculation for the credit that would require a new form or worksheet to be developed. As a result, this bill would impact the department's printing, processing, and storage costs for tax returns, instructions, and publications. These changes could be incorporated into the department's annual changes, and as such, the costs would be minor.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 1339, As Amended May 24, 2011, For Taxable Years Beginning On or After January 1, 2012, Enactment Assumed After June 30, 2011				
2011-12	2012-13	2013-14	2014-15	2015-16
-\$30,000	-\$150,000	-\$250,000	-\$300,000	-\$350,000

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill. This estimate assumes the maximum amount of the credit would be \$2,500.

LEGISLATIVE STAFF CONTACT

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